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5 UNITED STATES DISTRICT COURT  
6 WESTERN DISTRICT OF WASHINGTON  
7 AT SEATTLE

8 TYRONE WILLIAMS,

9 Plaintiff,

10 v.

11 BRIAN BELONGIA,

12 Defendant.

C17-1085 TSZ

MINUTE ORDER

13 The following Minute Order is made by direction of the Court, the Honorable  
14 Thomas S. Zilly, United States District Judge:

15 (1) By Minute Order entered September 4, 2018, docket no. 33, the Court  
16 denied defendant's motion for summary judgment, concluding that the issue of whether  
17 defendant is entitled to qualified immunity involves genuine disputes of material fact. To  
18 be clear, defendant sought in his motion to invoke qualified immunity on the basis of an  
19 alleged mistake of fact, as opposed to a mistake of law; in essence, he argued that he is  
20 entitled to qualified immunity because his actions were based on reasonable mistakes of  
21 fact concerning whether plaintiff posed a risk to him, his fellow officers, and/or the  
22 public. The parties agree that plaintiff was not armed during the incident, but defendant  
23 asserts that he was justified in using lethal force and discharging his firearm because  
plaintiff charged into him while running away from the scene of a burglary and then spun  
back toward him as if to shoot. Plaintiff admits fleeing from the residence at issue, but  
indicates that he ran around defendant to avoid any physical contact, and he denies  
looking back, spinning, decelerating, or making any stutter steps before defendant shot  
him. Defendant contends that plaintiff's injuries, namely a fractured left seventh (7th) rib  
and lumbar spine (L2-3) and loss of the spleen and left kidney, are consistent with  
defendant's, not plaintiff's, version of events, but defendant's own expert, a forensic  
pathologist, has indicated that determining plaintiff's "immediate position or activity

1 prior to being shot” is “not possible.” Ex. 10 to Kinerk Decl. (docket no. 24 at 132).  
2 Given this record, the Court had no option but to deny defendant’s motion for summary  
3 judgment. Defendant has appealed to the United States Court of Appeals for the Ninth  
4 Circuit. Plaintiff’s counsel has inquired of the case administrator, via an ex parte  
5 telephone call, whether this case will be stayed pending the Ninth Circuit’s review. The  
6 briefing on appeal will not be complete until after this matter is set for trial on  
7 December 3, 2018, see Time Schedule Order (docket no. 35), and the case is unlikely to  
8 be remanded before the opening and answering briefs are filed on November 5, 2018, and  
9 December 5, 2018, respectively. Thus, the Court STRIKES the trial date and all  
10 remaining related dates and deadlines, and STAYS this action pending the Ninth  
11 Circuit’s mandate. The parties are DIRECTED to file a Joint Status Report within  
12 fourteen (14) days of the issuance of a mandate or by June 28, 2019, whichever occurs  
13 earlier.

14 (2) The Clerk is directed to send a copy of this Minute Order to all counsel of  
15 record.

16 Dated this 11th day of October, 2018.

17 William M. McCool  
18 Clerk

19 s/Karen Dews  
20 Deputy Clerk